

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SHIRLEY ANN EWING,

Defendant-Appellant.

UNPUBLISHED

March 8, 2007

No. 267153

Genesee Circuit Court

LC No. 03-011696-FC

Before: Servitto, P.J., and Talbot and Schuette, JJ.

MEMORANDUM.

Defendant appeals as of right from her sentence of 375 months' to 600 months' (31 years, three months to 50 years) imprisonment imposed on remand on her conviction of second-degree murder, MCL 750.317. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Defendant was convicted by a jury of second-degree murder, two counts of assault with intent to do great bodily harm less than murder, MCL 750.84, and possession of a firearm during the commission of a felony, MCL 750.227b. Decedent was defendant's boyfriend. The statutory sentencing guidelines for second-degree murder recommended a minimum term range of 225 to 375 months (18 years, nine months to 31 years, three months). The trial court sentenced defendant to concurrent prison terms of 50 to 83 years for the second-degree murder conviction and five to ten years for assault with intent to do great bodily harm less than murder conviction, and to a consecutive two-year term for felony-firearm.

In *People v Ewing*, unpublished per curiam opinion of the Court of Appeals, issued March 22, 2005 (Docket No. 252558), another panel of this Court affirmed defendant's convictions but remanded for resentencing on the conviction of second-degree murder, only, on the ground that the trial court failed to articulate substantial and compelling reasons for exceeding the guidelines. *Id.*, slip op at 6-7.

On remand, the guidelines for second-degree murder were again scored at 225 to 375 months. The trial court sentenced defendant to 375 months to 600 months in prison for second-degree murder. Defendant's other sentences remained unchanged.

Under the sentencing guidelines act, if a minimum sentence is within the appropriate sentencing guidelines range, we must affirm the sentence and may not remand for resentencing

absent an error in the scoring of the guidelines or inaccurate information relied on by the trial court in determining the sentence. MCL 769.34(10); *People v Kimble*, 470 Mich 305, 309; 684 NW2d 669 (2004).

Defendant argues that she is entitled to be resentenced on her second-degree murder conviction because the trial court failed to adequately consider evidence of domestic violence when fashioning the sentence. We disagree.

Defendant's sentence for second-degree murder imposed on remand was within the guidelines. On appeal, defendant does not assert that the guidelines were erroneously scored, and does not claim that the trial court relied on erroneous information when imposing sentence. Because the sentence was within the guidelines and defendant does not claim error of the type that permits appellate review, we must affirm the sentence. MCL 769.34(10); *Kimble, supra* at 309.

Affirmed.

/s/ Deborah A. Servitto
/s/ Michael J. Talbot
/s/ Bill Schuette